

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6802

BILL NUMBER: HB 1122

NOTE PREPARED: Jan 4, 2010

BILL AMENDED:

SUBJECT: Abatement of Vacant or Abandoned Structures.

FIRST AUTHOR: Rep. Riecken

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: *Abatement Notice/Order to Foreclosure Judgement Holder-* The bill provides that a county or municipality that adopts the statute concerning the abatement of vacant structures and abandoned structures may issue an abatement notice and order to a foreclosure judgment holder in a residential mortgage foreclosure proceeding if the foreclosure judgment holder has not filed a praecipe to initiate a sheriff's sale within 180 days after the entry of the foreclosure judgment. (Current law provides for the issuance of an abatement notice and order only with respect to the owner of the property.) The bill provides that an abatement notice and order must direct the owner or foreclosure judgment holder to bring the vacant structure or abandoned structure into compliance with any applicable building standards required by statute, rule, or ordinance.

Not Liable- The bill provides that a foreclosure judgement holder that performs, or causes to be performed, any work or action required by an abatement notice or order is not liable to the property owner, the enforcement authority, or any other person in connection with the work performed.

Civil Penalty Limit Timing- The bill specifies that for purposes of the limits on the amount of civil penalties that can be imposed in a year for structures that remain vacant or abandoned for specified periods after the issuance of an abatement notice and order, a year is measured from the date of the order.

Praecipe Filed to Avoid Civil Penalties- The bill provides that if the abatement notice and order has been issued against a foreclosure judgment holder, the foreclosure judgment holder may avoid the civil penalties that would otherwise apply by filing, not later than 180 days after the date of issuance of the abatement notice and order, a praecipe with the county clerk to initiate a sheriff's sale.

Cancellation of Sheriff's Sale- The bill provides that if a foreclosure judgment holder files a praecipe to initiate a sheriff's sale within 180 days after the issuance of the abatement notice and order and subsequently cancels the sale, the foreclosure judgment holder is liable for: (1) any civil penalties that otherwise would have applied during the 180-day period; (2) any civil penalties that accrue after the 180-day period; and (3) certain costs incurred by the sheriff in preparing for the sheriff's sale before its cancellation.

Deposit of Civil Penalties- The bill provides that civil penalties collected for structures that remain vacant or abandoned shall be deposited in: (1) the local unsafe building fund; or (2) another fund or account specified in the rules and procedures adopted by the legislative body. The bill provides that if any civil penalties assessed against a foreclosure judgment holder remain unpaid after a subsequent sheriff's sale of the property, the unpaid civil penalties shall be paid from the proceeds of the sheriff's sale.

Amending Rules and Procedures- The bill requires a county or municipality that, before July 1, 2010, has adopted: (1) the statute concerning the abatement of vacant structures and abandoned structures; and (2) rules and procedures to enforce the statute; to amend its rules and procedures not later than August 1, 2010, to comply with changes to the statute.

Effective Date: Upon passage; July 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: The bill may increase the number of sheriffs' sales that occur if foreclosure judgment holders were required to make improvements to a property or face civil penalties.

Unsafe Building Fund- Local unsafe building funds could be used to cover the costs to carry out the abatement of vacant and abandoned structures.

Explanation of Local Revenues: Summary- The bill would require foreclosure judgement holders to be liable for existing civil penalties for leaving a building abandoned or vacant. (See *Additional Civil Penalties* below.) If foreclosure judgement holders do not initiate a sheriff's sale or make the required improvements to the properties in question, local revenues could increase if more civil penalties are assessed.

Unpaid Civil Penalties- For sheriff's sales that occur after June 30, 2010, the amount of unpaid civil penalties collected from a foreclosure judgement holder would be transferred to the county treasurer.

Avoidance of Civil Penalties- If within 180 days of the issuance of an abatement notice to a foreclosure judgement holder, the holder files for a praecipe for a sheriff's sale, and the sale is carried out, any and all civil penalties assigned to the holder would be waived. However, if the sale were cancelled by the holder and improvements had not occurred, then the penalties would be reinstated plus any additional penalties that would have accrued. Additionally, the holder could be penalized for costs to the sheriff to prepare the sale, costs outside administrative fees, and costs that would have been payable by using the proceeds of the sale.

Additional Civil Penalties- The bill also adds an additional civil penalty of \$5,000 for the fifth and each additional 90-calendar-day period that a building remains abandoned or vacant. Current law allows the assessment of a civil penalty on property owners at the following amounts.

Penalties for Structure Remaining Abandoned or Vacant	
Time Period (Current Law)	Civil Penalty (Current Law)
Second 90-day Period	\$1,000
Third 90-day Period	\$1,500
Fourth and Subsequent Periods	\$2,000

However, under current law, total civil penalties may not exceed \$5,000 per year. The bill would change the effective date of when that year begins to the date an abatement notice and order is issued.

State Agencies Affected:

Local Agencies Affected: Counties and municipalities.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851.